

DECISION
TALBOT COUNTY BOARD OF APPEALS
Appeal No. 16-1644

Pursuant to due notice, a public hearing was held by the Talbot County Board of Appeals at the Bradley Meeting Room, Court House, South Wing, 11 North Washington Street, Easton, Maryland, beginning at 7:00 p.m., March 14, 2016, on the application of **SASHA M. FURDAK-ROY** ("Applicant"). The Applicant is requesting a variance of the 20 percent increase in gross floor area limit to replace a 52' x 10' existing mobile home with a 66' x 16' mobile home. The property is located at 13079 Pine Orchard Road, Queen Anne, Maryland 21657 in the Village Center (VC) zone. It is owned by the Applicant. The request is made in accordance with Chapter 190 Zoning, Article V, §190-167 and Article IX, §190-182 of the Talbot County Code ("Code").

Present at the hearing were Board of Appeals members Paul Shortall, Jr., Chairman, Phillip Jones, Vice Chairman, John Sewell, Margaret Young, and Louis Dorsey. Mr. Michael A. Roy, father of and authorized representative of the property owner, testified in support of the application. Jeremy Rothwell, Planner I, Talbot County Office of Planning and Zoning, attended the hearing on behalf of the County. Glenn D. Klakring was the attorney for the Board of Appeals.

It was noted for the record that each of the members of the Board had visited the site individually. The following exhibits were offered and admitted into evidence as Board's Exhibits as indicated:

1. Application for variance.
2. Copy of a portion of the Talbot County tax map with the property highlighted.
3. Appeals Notice of Public Hearing.
4. Certificate of publication of the Notice of Public Hearing from the *Star-Democrat*.
5. Notice of hearing with a list of nearby property owners attached.
6. Copy of variance requirements from the Code with the Applicant's response to each applicable requirement.
7. Staff Report dated March 14, 2016, with attachments.

8. Sign maintenance agreement.
9. Site Plan.
10. Floor Plan.
11. Authorization letter from Sasha M. Furdak-Roy.
12. Independent Disclosure and Acknowledgement Form.
13. Aerial photograph.
14. Deed.
15. Letter from Rauch Engineering Design and Development Services dated November 5, 2015.
16. Copy of Code section 190-167, non-conforming uses.
17. Photographs of property taken during staff site visit.
18. Letter from Eric VanGraafeiland, Talbot County Health Department.

The first witness was Mr. Michael Roy. His current address is 216 Commerce Street, Centreville, Maryland. He lives there, temporarily, with his elderly mother taking care of her. She suffers from bone cancer and Mr. Roy has a degenerative bone disease. He is also disabled with a service connected disability.

Mr. Roy testified that the property is owned by his daughter and it has been passed down through several generations. She wants to continue to provide a home on her property for her father and grandmother.

He said that he spent a lot of money attempting to keep the original trailer home livable but it became apparent that he was wasting his money. His daughter agreed to step in and help financially by providing for a new mobile home to be placed on the property as a livable home for her father and grandmother for as long as they needed.

The existing trailer is 45 years old and not manufactured any longer. The replacement trailer, although larger, will still have only two bedrooms and two bathrooms.

In response to a question from a Board member Mr. Rothwell said that the subject property is the smallest lot in the area. It is only about 6,400 square feet. The other lots in the area are one to two acres. The Applicant's property is too small to allow for a replacement septic system that might accommodate a manufactured home rather than a trailer. He said that the only structure the Health Department will allow on the property is a single-wide trailer.

In response to another question from a Board member Mr. Roy said that the larger size trailer was necessary to accommodate his mother's motorized wheelchair. The hallways and doorways in any available smaller trailer could not be modified for wheelchair accessibility. Even the larger trailer had to be customized to accommodate the wheelchair.

Mr. Roy said that the existing electrical pole will have to be moved. Possibly the electric company may install the electric service underground.

No one appeared in opposition to the application.

There being no further evidence the Board considered the application.

After some discussion and upon motion duly made and seconded, the Board made the following findings of fact and law:

1. All legal requirements pertaining to a public meeting were met.
2. Certain unique physical characteristics exist, such as unusual size or shape of the property or extraordinary topographical conditions, such that a literal enforcement of the provisions of the Code would result in practical difficulty or unreasonable hardship in enabling the Applicant to develop the property. The property is too small to accommodate a new septic disposal area. The mobile home cannot be replaced with a permanent single-family dwelling. The only option for the property owner is to replace

the existing mobile home with another two-bedroom and two bath mobile home. The increased size of the new home is required to provide reasonable accommodations for the disabled residents. Despite the increased size of the proposed new mobile home it will meet all of the required setbacks.

3. The granting of the variance is not based upon circumstances which are self-created or self-imposed. The existing mobile home is antiquated and unrepairable. Also, it does not provide adequate handicap accessibility.
4. Greater profitability or lack of knowledge of the restrictions was not considered as sufficient cause for the variance.
5. The granting of the variance will not be contrary to the public interest and will not be a detriment to adjacent or neighboring properties. Two bordering lots have mobile homes and there are others in the immediate vicinity. The new mobile home merely replaces an existing, but deteriorating mobile home in the same location.
6. The variance does not exceed the minimum adjustment necessary to relieve the practical difficulty or unreasonable hardship. The existing mobile home cannot be replaced in kind as it is no longer manufactured. More importantly, the proposed larger mobile home will meet current safety codes and will have enough floor area to make the home handicap accessible for the disabled residents.

HAVING MADE THE FOREGOING FINDINGS OF FACT AND LAW, IT IS, BY THE TALBOT COUNTY BOARD OF APPEALS,

RESOLVED that the Applicant, **SASHA M. FURDAK-ROY** (Appeal No. 16-1644) is **GRANTED** the requested variance consistent with the evidence provided the Board of Appeals and subject to the condition suggested by the County Staff, that is the Applicant shall make applications to,

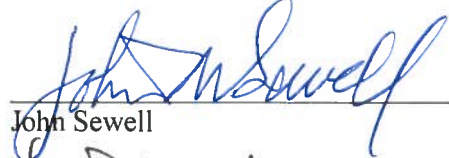
and follow all of the rules, procedures, and construction timelines as outlined by the Office of Permits and Inspections regarding new construction.

The vote of the Board was five to zero to grant the variance.

GIVEN OVER OUR HANDS, this 21st day of March, 2016.

TALBOT COUNTY BOARD OF APPEALS


Paul Shortall, Jr., Chairman


John Sewell


Louis Dorsey


Phillip Jones, Vice Chairman


Margaret Young

Board of Appeals/1644.RoyVarianceNCA